

COMMON COUNCIL MEETING

July 19, 2022

6:00PM

ORDER OF BUSINESS

- I. Call to Order
- II. Salute to the Flag
- III. Roll Call
- IV. Adoption of Agenda
- V. Proclamations
- VI. Communications and Presentations
- VII. Public Participation
- VIII. Controller's Report
- IX. Old Business:
- X. New Business:
 - (a) Resolutions
 - (b) Ordinances:
 - (c) Local Laws:
 - (d) Introduction of Ordinances:
 - (e) Introduction of Local Laws:
 - (f) Committee Reports
 - (g) Scheduling of Committee Meetings
 - (h) Other
- XI. Executive Session
- XII: Adjournment

5:30PM COW

- 1. Review of Agenda Items
- 2. Any other business to come before the Council

5:55PM PUBLIC HEARING – Ordinance D of 2022 *AN ORDINANCE AMENDING CHAPTER 228-53*

COMMON COUNCIL MEETING

July 19, 2022

6:00PM

OLD BUSINESS

NEW BUSINESS

- | | |
|---|---------------------|
| 10. RESOLUTION APPROVING MINUTES | MARTUSCELLO |
| 11. RESOLUTION AWARDING BID – 2022 ROAD PROGRAM | QUIST-DEMARS |
| 12. RESOLUTION AUTHORIZING AGREEMENT – ENGINEERING/LABELLA | QUIST-DEMARS |
| 13. RESOLUTION AUTHORIZING MONT CO. GRASS AND BRUSH AGREEMENT | MARTUSCELLO |
| 14. RESOLUTION ACCEPTING GRANT APPLICATION – SMART GROWTH
COMPREHENSIVE PLAN/NYS DEPARTMENT OF STATE | S. GOMULA |
| 15. RESOLUTION TRANSFERRING FUNDS- DPW/ENGINEERING DIESEL | QUIST-DEMARS |
| 16. RESOLUTION APPROVING THE SUBMISSION OF A GRANT APPLICATION
TO THE ENVIRONMENTAL FACILITIES CORPORATION | MAYOR |
| 17. RESOLUTION AUTHORIZING SALE OF CITY OWNED PROPERTY- 6-12 BRICE | S. GOMULA |
| 18. RESOLUTION AUTHORIZING AGREEMENT-SPCA | MARTUSCELLO |
| 19. RESOLUTION APPROVING AUDIT | COLLINS |

*ORDINANCE D OF 2022 (to be known as Ordinance 4 of 2022 if adopted) AN ORDINANCE
AMENDING CHAPTER 228-53*

COMMON COUNCIL MEETING

July 19, 2022

6:00PM

RESOLUTION #22/23-10

RESOLUTION ADOPTING MINUTES OF THE LAST COMMON COUNCIL MEETING

BY: ALDERMAN MARTUSCELLO

RESOLVED, the minutes of the last Common Council Regular Meeting of July 5, 2022 are hereby adopted.

City of Amsterdam, NY

	Aye	Nay
Alderwoman Quist-Demars		
Alderman D. Gomula		
Alderwoman Collins		
Alderman S. Gomula		
Alderman Martuscello		

MICHAEL CINQUANTI, MAYOR

DATED: _____, 2022

COMMON COUNCIL MEETING

July 19, 2022

6:00PM

RESOLUTION #22/23- 11

RESOLUTION AWARDING BID – 2022 ROAD PROGRAM

BY: ALDERWOMAN QUIST-DEMARS

WHEREAS, bids for the Street Resurfacing and Sidewalk Reconstruction Project- 2022 were advertised by the City Clerk and opened publicly on July 15, 2022 at 11am; and

WHEREAS, the City Engineer has reviewed all received bids and recommends that it be awarded lowest, most responsible bidder _____.; now therefore be it

RESOLVED, the following bid for the Street Resurfacing and Sidewalk Reconstruction Project for 2022:

_____ \$ _____

Common Council
City of Amsterdam, NY

	Aye	Nay
Alderwoman Quist-Demars		
Alderman D. Gomula		
Alderwoman Collins		
Alderman S. Gomula		
Alderman Martuscello		

MICHAEL CINQUANTI, MAYOR

DATED: _____, 2022

COMMON COUNCIL MEETING

July 19, 2022

6:00PM

RESOLUTION #22/23-12

RESOLUTION AUTHORIZING AGREEMENT- ENGINEERING/LABELLA

BY: ALDERWOMAN QUIST-DEMARS

WHEREAS, the City intends to advance the 2022 Street Resurfacing project; and

WHEREAS, the City has determined that full time construction inspection is necessary to provide quality control; NOW therefore be it

RESOLVED, that the City Engineer is authorized to execute an hourly-based professional services agreement with LaBella Associates, P.C. to provide said construction support services.

City of Amsterdam, NY

	Aye	Nay
Aldерwoman Quist-Demars		
Alderman D. Gomula		
Aldерwoman Collins		
Alderman S. Gomula		
Alderman Martuscello		

MICHAEL CINQUANTI, MAYOR

DATED: _____, 2022

COMMON COUNCIL MEETING

July 19, 2022

6:00PM

RESOLUTION #22/23-13

RESOLUTION AUTHORIZING MAYOR TO EXECUTE CONTRACT WITH COUNTY OF MONTGOMERY FOR CONTROL OF GRASS AND BRUSH ON COUNTY HIGHWAYS

BY: ALDERMAN MARTUSCELLO

WHEREAS, the City of Amsterdam wishes to enter into a one-year contract with the County of Montgomery in the amount of \$148.00 relating to control of Grass and Brush on county highways, said contract covering June 1, 2022 and running through May 31, 2023; and

WHEREAS, a copy of the contract being attached hereto;

NOW THEREFORE, BE IT RESOLVED that the mayor is authorized to execute the attached contract with the County of Montgomery.

City of Amsterdam, NY

	Aye	Nay
Aldерwoman Quist-Demars		
Alderman D. Gomula		
Aldерwoman Collins		
Alderman S. Gomula		
Alderman Martuscello		

MICHAEL CINQUANTI, MAYOR

DATED: _____, 2022

COMMON COUNCIL MEETING

July 19, 2022

6:00PM

RESOLUTION #22/23-14

**RESOLUTION ACCEPTING GRANT APPLICATION FOR CITY OF AMSTERDAM
SMART GROWTH COMPREHENSIVE PLAN – NYS DEPARTMENT OF STATE**

BY: ALDERMAN S. GOMULA

WHEREAS, the New York State Department of State (NYSDOS) accepted applications through the 2021 Consolidated Funding Application (CFA) for projects that would create a Smart Growth Comprehensive Plan; and

WHEREAS, the City of Amsterdam submitted an application through the 2021 CFA process in order to update the City's 2003 Comprehensive Plan; and

WHEREAS, the updated plan would concentrate on the City of Amsterdam's efforts to establish land use policies which support smart growth and clean energy principles for the community; and

WHEREAS, that said grant funding was awarded in the amount of \$90,000 from the New York State Department of State (NYSDOS) with a share of \$10,000 by the City, for a \$100,000 project;

RESOLVED, that the City of Amsterdam Community & Economic Development department are hereby authorized to administer said application on behalf of the City; and

FURTHER RESOLVED, upon review of the provided contract with New York State Department of State (NYSDOS) by the City Attorney, the Mayor is hereby authorized to sign said contract.

City of Amsterdam, NY

	<u>Aye</u>	<u>Nay</u>
<u>Alderman Quist-Demars</u>		
<u>Alderman D. Gomula</u>		
<u>Alderman Collins</u>		
<u>Alderman S. Gomula</u>		
<u>Alderman Martuscello</u>		

MICHAEL CINQUANTI, MAYOR
DATED: _____, 2022

COMMON COUNCIL MEETING

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6:00PM

RESOLUTION #22/23-15

RESOLUTION TRANSFERRING FUNDS- ENGINEERING/DPW DIESEL

BY: ALDERWOMAN QUIST-DEMARS

WHEREAS, a transfer of funds is necessary in order to pay for an overage of diesel costs within the DPW sewer line; now, therefore be it

RESOLVED, the Controller is authorized to transfer funds from the 21/22 budget as follows:

DECREASE EXPENSE:

CL.8160.4036	Contingency	\$543.20
F.8340.4036	Contingency	\$349.11
G.8120.4056	Training/Travel	\$643.12

INCREASE EXPENSE:

CL.8160.4139	Diesel	\$543.20
F.8340.4139	Diesel	\$349.11
G.8120.4139	Diesel	\$643.12

City of Amsterdam, NY

	Aye	Nay
Alderwoman Quist-Demars		
Alderman D. Gomula		
Alderwoman Collins		
Alderman S. Gomula		
Alderman Martuscello		

MICHAEL CINQUANTI, MAYOR

DATED: _____, 2022

COMMON COUNCIL MEETING

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6:00PM

RESOLUTION #22/23-16

**RESOLUTION APPROVING THE SUBMISSION OF A GRANT APPLICATION TO
THE ENVIRONMENTAL FACILITIES CORPORATION**

BY: MAYOR CINQUANTI

WHEREAS, the New York State Environmental Facilities Corporation is making grants available under the Green Infrastructure Grant Program for water efficiency projects; and,

WHEREAS, the City of Amsterdam uses water at a rate that is almost three times as high as surrounding communities, which results excessive water treatment and distribution costs; and,

WHEREAS, the City of Amsterdam does not meter residential water users and has been advised by the New York State Department of Health and the Environmental Facilities Corporation to install water meters to control waste and reduce inefficient use of water,

NOW, THEREFORE, BE IT RESOLVED, that the City of Amsterdam apply to the Environmental Facilities Corporation for grant funding to install residential water meters throughout the City; and,

BE IT FURTHER RESOLVED, the Mayor is hereby authorized and directed to sign any and all documents necessary for the submission of said application to the Environmental Facilities Corporation.

City of Amsterdam, NY

	Aye	Nay
Alderwoman Quist-Demars		
Alderman D. Gomula		
Alderwoman Collins		
Alderman S. Gomula		
Alderman Martuscello		

MICHAEL CINQUANTI, MAYOR

DATED: _____, 2022

COMMON COUNCIL MEETING

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RESOLUTION #22/23-17

RESOLUTION AUTHORIZING SALE OF CITY OWNED PROPERTY 6-12 BRICE

BY: ALDERMAN S. GOMULA

WHEREAS, bids were advertised and received for various properties throughout the City taken by foreclosure; now therefore be it

WHEREAS, a petition was submitted by neighboring residents to the Common Council that this property should be awarded to the Pasquarelli Family; now therefore be it

RESOLVED, the below is hereby authorized for sale for the offer amount listed:

6-12 Brice St

SBL# 56.6-1-66

\$15,010

Thomas/Karen Pasquarelli

City of Amsterdam, NY

	Aye	Nay
Alderwoman Quist-Demars		
Alderman D. Gomula		
Alderwoman Collins		
Alderman S. Gomula		
Alderman Martuscello		

MICHAEL CINQUANTI, MAYOR

DATED: _____, 2022

COMMON COUNCIL MEETING

July 19, 2022

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RESOLUTION #22/23-18

**RESOLUTION AUTHORIZING MAYOR TO EXECUTE DOG SHELTER SERVICES
AGREEMENT WITH MONTGOMERY COUNTY SPCA**

BY: ALDERMAN MARTUSCELLO

WHEREAS, the City of Amsterdam wishes to enter into a contract with the Montgomery County SPCA in the amount of \$16,000 in four (4) quarterly installments to be paid over two years relating to dog shelter services, for the period July 1, 2022 to June 30, 2024.

WHEREAS, a copy of the contract being attached hereto;

NOW THEREFORE, BE IT RESOLVED that the mayor is authorized to execute the attached contract with the Montgomery County SPCA.

City of Amsterdam, NY

	<u>Aye</u>	<u>Nay</u>
<u>Alderwoman Quist-Demars</u>		
<u>Alderman D. Gomula</u>		
<u>Alderwoman Collins</u>		
<u>Alderman S. Gomula</u>		
<u>Alderman Martuscello</u>		

MICHAEL CINQUANTI, MAYOR

DATED: _____, 2022

COMMON COUNCIL MEETING

July 19, 2022

6:00PM

RESOLUTION #22/23-19

RESOLUTION APPROVING AUDIT

BY: ALDERWOMAN COLLINS

RESOLVED, the bills and documentation of same presented in "Pre-Check Writing Report Parameter" dated July 19, 2022 to the Common Council and affirmed by the Controller as correct and to be paid, the City Clerk is authorized and empowered to issue warrants in payment of same.

City of Amsterdam, NY

	Aye	Nay
Alderman Quist-Demars		
Alderman D. Gomula		
Alderman Collins		
Alderman S. Gomula		
Alderman Martuscello		

MICHAEL CINQUANTI, MAYOR

DATED: _____, 2022

COMMON COUNCIL MEETING

July 19, 2022

6:00PM

ORDINANCE D OF 2022 (to be known as Ordinance 4 of 2022 if adopted)

AN ORDINANCE AMENDING CHAPTER 228-53

BY: MAYOR CINQUANTI

WHEREAS, it has been recommended that a change be made to Chapter 228-53 of the Code of the City of Amsterdam, in the Common Council does hereby:

ORDAIN AND ENACT as follows:

Chapter §228-53 of the Code of the City of Amsterdam is hereby amended as indicated as below:
(underlined text is to be added to the Code)

In accordance with the provisions of §228-23, no person shall park a vehicle upon any of the following described streets or parts thereof:

Name of Street	Side	Time Limit:Hours/Days	Location
<u>Main Street</u>	<u>South</u>	<u>No Parking – Ever</u>	<u>James T. Bergen Veterans Park</u>

City of Amsterdam, NY

	<u>Aye</u>	<u>Nay</u>
<u>Alderwoman Quist-Demars</u>		
<u>Alderman D. Gomula</u>		
<u>Alderwoman Collins</u>		
<u>Alderman S. Gomula</u>		
<u>Alderman Martuscello</u>		

MICHAEL CINQUANTI, MAYOR
DATED: _____, 2022



12

June 1, 2022

Michael A. Clark, P.E.
City Engineer
City of Amsterdam
City Engineer's Office
61 Church Street
Amsterdam, NY 12010

VIA EMAIL: mclark@amsterdamny.gov

RE: Construction Services Contract for City of Amsterdam NY 2022 Paving Program

Dear Mr. Clark:

LaBella Associates, DPC (LaBella) thanks you for this opportunity to provide Professional Support and Construction Services to your 2022 Street Paving Program. We feel well suited to perform these services as we currently provide similar functions for other municipalities.

We have reviewed the list of Streets/Roads you have on your program, along with some possible alternates.

Exhibit A - Scope of Services

Phase 0100 – Construction Inspector & Construction Manager

You indicated you would require full-time Construction Inspection while contractors were onsite; attendance at a Pre-Construction meeting; Punch List preparation & Final walk-thru with the Owner; Review of Monthly Pencil Copy AIA pay requisitions and recommendation for payment. It would be our intent to staff the project with Full Time NICET II or equivalent, with coordination and oversight of a Senior Construction Manager. All costs would be bundled into an hourly rate for onsite time by the Inspector. We assume any testing would be handled through the contractor or City.

We would respectfully submit a rate of \$105.00 per hour for the Inspector, with overtime being billed at a 1.35 multiplier. Should you need a Construction Manager services independent of the oversight of the inspector onsite our rate would be \$140 per hour. Mileage is included in rates.

21 Fox Street | Poughkeepsie, NY 12601 | p (845) 454-3980
www.labellapc.com



Professional Services Fee Schedule

LaBella proposes to bill each task as indicated in the following Fee and Time Schedule Summary. Invoices will be issued monthly for all services performed during that month and are payable upon receipt. Lump Sum tasks will be billed according to milestone completions for each deliverable, or commensurately with the percentage of the task which has been completed. Time and Materials tasks will be billed based on the actual hours and reimbursable expenses incurred, at the rates listed in our current Fee Schedule, a copy of which is attached. Fees listed for Time and Materials tasks are estimates only. LaBella will make its best effort to complete each of these tasks within the estimated amounts, however it is possible that it will be necessary to exceed these amounts in order to complete the scope of services for each task. We will not exceed any estimated fee amounts without written authorization from you.

Fee and Time Schedule Summary

Phases		Fee Estimates		Proposed Schedules
Phase No.	Task Description	Lump-Sum Fee Billing	Time and Materials Estimate No Limit	Projected Start / End Dates
0100	Construction Inspector Construction Manager		\$105/hr \$140/hr	Start: upon authorization End:
	Total Estimated Cost			



Agreement

Attached please find a copy of LaBella's Standard Agreement with included technical scope of services. Receipt of an executed copy of this Agreement will be our authorization to schedule the performance of this work. Please be aware that the projected task starts and completion dates are based upon timely receipt of the signed Agreement by 6-13-22. A delay in returning the necessary documents may require modification of the proposed task start and completion dates as described herein. This proposal is valid for 30 days from the date hereof.

Please feel free to contact Mike Connors at (845) 625-4212 if you have any questions whatsoever. LaBella looks forward to working with you on this project.

Respectfully submitted,

LaBella Associates

Michael Connors

LaBella Associates | Construction Services – Team Leader


cc: file

Professional Services Agreement

Agreement made the 1st day of JUNE, 2022
between

LaBella Associates, D.P.C.
("LaBella")

and

City of Amsterdam
Michael A. Clark, P.E.
("Client") 

for services related to the following Project:

City of Amsterdam 2022 Paving Program
("Project")

LaBella and Client hereby agree as follows:


- Description of Services:** LaBella shall perform the services set forth and described in LaBella's proposal, dated 6-1-22, a copy of which is attached as *Exhibit A*, in accordance with the terms and conditions of this contract attached as *Exhibit B*.
- Compensation for Services:** Client shall compensate LaBella for its professional services as set forth in LaBella's proposal. LaBella shall submit invoices for services rendered on a monthly basis. Client shall make payment to LaBella no later than thirty (30) days after the date of each invoice.
- Term:** LaBella shall commence performing its services when Client gives notice to proceed. This Agreement shall terminate when LaBella's services are completed, or as otherwise provided in this Agreement.
- Insurance:** LaBella shall maintain, at its own expense, throughout the term of this Agreement and until the expiration of all applicable statutes of limitation, the following insurance coverages:

- Comprehensive general liability insurance with policy limits of not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate for bodily injury and property damage.
- Automobile liability insurance covering owned, non-owned, rented and hired vehicles operated by LaBella with policy limits of not less than \$1,000,000 combined single limit and aggregate for bodily injury and property damage.
- Umbrella liability insurance with policy limits of not less than \$10,000,000 each occurrence and \$10,000,000 in the aggregate.
- Worker's compensation insurance at statutory limits and employer's liability insurance with a policy limit of not less than \$1,000,000 for all employees engaged in the rendering of professional services under this Agreement; and
- Professional liability insurance with policy limits of not less than \$5,000,000 per claim and \$5,000,000 in the aggregate.

Client shall be named as an additional insured on a primary and non-contributory basis under the CGL, Automobile and Umbrella insurance policies. LaBella shall provide to the Client certificates of insurance evidencing compliance with the requirements of this Agreement. The certificates shall contain a provision that at least thirty (30) days prior written notice shall be given to Client in the event of cancellation, non-renewal, or reduction of the insurance.

5. **Indemnification:** To the fullest extent permitted by law, LaBella shall indemnify and hold the Client and its officers and employees harmless from and against liabilities, damages, losses and judgments, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of LaBella, its employees and its consultants in the performance of professional services under this Agreement. Client agrees that LaBella's financial responsibility for any and all liabilities, damages, losses, judgments, expenses and attorneys' fees shall be limited to the lesser of \$_____ or the available proceeds of LaBella's insurance coverage.

LaBella Associates, D.P.C.

By: 
 Name: Michael Connors
 Title: Manager, Construction Services
 Date: 6/1/2022

Client Name

By: _____
 Name: Michael A. Clark
 Title: _____
 Date: _____

Exhibit B
Terms and Conditions

Terms and Conditions

LaBella's Responsibilities: LaBella shall designate a representative authorized to act on its behalf with respect to the Project. All notices required under this Agreement shall be given to that representative.

LaBella shall perform its services consistent with the professional skill and care ordinarily provided by members of the same profession practicing in the same or similar locality under the same or similar circumstances. LaBella shall perform its services as expeditiously as is consistent with such professional skill and care, and the orderly progress of the Project.

LaBella shall comply with all applicable federal, state, and local laws and regulations in effect during the term of this Agreement. LaBella shall promptly inform Client of any changes to any laws and regulations that LaBella reasonably believes will have a material effect upon the cost of the Project, or the scope of LaBella's services. In such event, Client and LaBella shall re-negotiate the terms of this Agreement, and if unable to do so, then either party may terminate this Agreement without cause and without penalty or liability to the other party.

Client's Responsibilities: Client shall designate a representative authorized to act on its behalf with respect to the Project. All notices required under this Agreement shall be given to that representative.

Client shall provide LaBella with all available information regarding the Project necessary for LaBella to perform its professional services, including Client's requirements for the Project. Client also shall provide information regarding the Project site and any existing facilities, including destructive testing and investigation of concealed conditions and hazardous substances, in a timely manner. If Client does not perform destructive testing or investigation, nor provide information beyond that which is apparent by non-intrusive observations, or in the event documentation or information furnished by Client is inaccurate or incomplete, then any resulting damages, losses and expenses, including the cost of LaBella's changes in service or additional services, shall be borne by Client.

Client shall examine documents submitted by LaBella and render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of LaBella's services.

Additional Services: LaBella may provide additional services after execution of this Agreement without invalidating the Agreement. LaBella shall not proceed to provide any additional services, unless and until LaBella receives written direction from Client. Client shall compensate LaBella for additional services as set forth in LaBella's proposal, or as agreed upon in writing signed by both parties.

Assignment: Neither party may assign any benefit or obligation under this Agreement without the prior written consent of the other party, except LaBella may use the services of persons and entities not in LaBella's employ when appropriate and customary to do so.

Confidentiality: During the Project, confidential and/or proprietary information of the Client might be furnished to LaBella. LaBella shall use such information for the purpose of providing its professional services on the Project, and for no other purpose. LaBella shall hold such information in strict confidence, and shall not disclose such information to any person or entity, except sub-consultants engaged on the Project. Upon completion of its services, LaBella shall return or destroy all confidential and/or proprietary information to the Client.

Instruments of Service: All documents prepared or furnished by LaBella pursuant to this Agreement are instruments of professional service, and LaBella shall retain its ownership and property interest therein, including all copyrights. Upon payment for services rendered, LaBella grants Client a license to use the instruments of service for the purposes of constructing, occupying and maintaining the Project. Reuse or modification of any such documents by Client without LaBella's written permission shall be at Client's sole risk, and Client agrees to defend, indemnify, and hold LaBella harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or by others acting through Client.

Escalation: In the event the term of this Agreement is extended beyond the period of service set forth in LaBella's proposal, then compensation for professional services are subject to review and escalation by LaBella upon thirty (30) days written notice to Client.

Suspension: Client may suspend this Agreement in whole or in part at any time for convenience upon seven (7) days written notice. Upon receipt of notice, LaBella shall immediately discontinue all services. LaBella shall be entitled to compensation for all services rendered up to the date of suspension. If the suspension exceeds three (3) months, an equitable adjustment in compensation shall be negotiated to compensate LaBella for all reasonable costs incurred by LaBella on account of the suspension of the Project.

Termination: Either party may terminate this Agreement for cause upon seven (7) days written notice with an opportunity to cure any default during that period.

Disputes: The parties agree that mediation before a mutually agreeable neutral third party shall be a condition precedent to any legal action arising out of this Agreement, unless waived in writing by the parties. The cost of the mediation shall be borne equally by the parties. The mediation shall be conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, unless the parties agree otherwise. No demand for mediation shall be made after the date that the applicable statute of limitations would bar a legal or equitable action based on the claim or dispute.

Venue and Jurisdiction: Any legal suit, action or proceeding arising out of or relating to this agreement shall be instituted in a court of competent jurisdiction located in the state and county where the project is located. The parties hereby waive any objection which they may have now or hereafter to the venue of any such suit, action or proceeding, and also hereby irrevocably consent to the personal jurisdiction of any such court in any such suit, action or proceeding.

Choice of Law: This Agreement shall be interpreted, construed and enforced in accordance with the laws of the state where the project is located without giving effect or reference to any conflict

of laws provisions.

Consequential Damages: In any suit, action or proceeding, the parties shall be entitled to recover compensatory damages incurred as a result of the breach of this Agreement, but neither party shall be liable to the other for any special, indirect, or consequential damages.

Late Fees, Costs and Attorneys' Fees: An additional charge of 1.5% of an invoice will be imposed each month on all past due accounts. Imposition of such charges does not constitute an extension of the payment due date. In the event that LaBella must bring suit to collect payment of any invoices, then Client agrees to pay LaBella's costs and expenses, including reasonable attorneys' fees.

Remedies Cumulative: The rights and remedies available to a party under this Agreement are cumulative and in addition to, not exclusive of, or in substitution for, any other rights or remedies either party may have at law, or in equity, or under this Agreement. Nothing contained in this Agreement shall be deemed to preclude either party from seeking injunctive relief, if necessary, in order to prevent the other party from willfully or intentionally breaching its obligations under this Agreement or to compel the other party to perform its obligations hereunder.

Non-Waiver: Failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement will not be construed as a waiver of any right accruing under this Agreement, nor affect any subsequent breach, nor affect the effectiveness of this Agreement or any part hereof, nor prejudice either party as regards any subsequent action.

Force Majeure: Neither party to this Agreement shall be liable to the other for delays in performing the obligations called for by this Agreement, or the direct and indirect costs resulting from such delays, that are caused by labor strikes, riots, war, acts of government authorities other than the Client (if a governmental authority), extraordinary weather conditions, epidemics, pandemics or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

Severability: The provisions of this Agreement are hereby agreed and declared to be severable. Any term or provision of this Agreement which is held to be unenforceable by a court of competent jurisdiction shall be deemed to have been stricken from this Agreement, and the remaining terms and provisions of this Agreement shall be construed and enforced without such terms or provisions.

Counterparts: This Agreement may be executed in one or more counterparts, each one of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Scope of Agreement: This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral, except that terms specific to future projects shall be set forth in LaBella's proposals. This Agreement may be amended only by written instrument signed by both parties.

13

**COUNTY OF MONTGOMERY
DEPARTMENT OF PUBLIC WORKS
AGREEMENT FOR CONTROL OF
GRASS AND BRUSH
ON COUNTY HIGHWAYS**

City of Amsterdam: Road Miles: 0.37 (Sandy Dr.)

2022/2023 Mowing Amount/Mile: \$400.00 – Total Grass and Brush Control Contract: \$148.00

This Agreement, made this _____ day of _____, 20____, by and between the County of Montgomery (hereinafter called the County and the City of Amsterdam hereinafter called the "Town) beginning June 1, 2022 and ending May 31, 2023.

Whereas, Section 135-a of the Highway Law provides that the Commissioner of Public Works may contract with any Town for the control of grass and brush on any county road, with the approval by Resolution of each of the legislative bodies of such County and Town; and

Whereas, Resolution No. 52 of 2022 authorizes contracting such grass and brush control within the ten (10) Towns, and the City of Amsterdam, with the approval by Resolution of each of those legislative bodies:

Now, therefore, in consideration of the mutual covenants and agreements between the parties hereto;

WITNESSETH:

1) TERM: This Agreement shall be from June 1, 2022 to May 31, 2023.

2) SERVICES:

- a. The Town shall clear such County highways and right of ways of grass and brush within the boundaries of such Town as designated by the Commissioner, to provide safe driving conditions
- b. The Town shall furnish to the Commissioner a certificate or certificates of insuring showing they comply with the County's insurance requirements as attached hereto as "Schedule A". The County must be named as an additional insured. All Certificates must be submitted with the signed contract.

**COUNTY OF MONTGOMERY
DEPARTMENT OF PUBLIC WORKS
AGREEMENT FOR CONTROL OF
GRASS AND BRUSH
ON COUNTY HIGHWAYS**

- c. This agreement may be suspended on five days' written notice by the Commissioner for failing to perform. Upon any suspension the Town shall be liable on a per diem basis (total amount of the contract divided by 365 per day) for any days for which the Agreement is suspended. Payment must be submitted within thirty (30) days. Failure to submit payment within thirty (30) days will result in interest being added to the outstanding balance. If the Agreement is reinstated and payment has not been made by the Town the owed money and interest can be withheld by the County on the subsequent payment at the County's sole option.
 - d. The Town shall be paid by the County for work performed under this agreement at the rate of \$400.00 per mile of County highways, for grass and brush control for 2022/2023.
 - e. One half of the total contract price for grass and brush control shall be paid by the 15th day of July, or within thirty days after the executed Agreement with necessary proof of insurance is received from the municipality, whichever is later; and the balance will be paid after an inspection of County roads has been made in the fall, but in no event later than October 1st. If this inspection shows damage caused in excess of \$2,500.00, the Town shall be held liable for said damage pursuant to the terms set forth in Paragraph "c" above.
- 3) **ENFORCEABILITY:** If any term of this Agreement or the application thereof to any person or circumstances shall to any extent be held by a Court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall not be affected thereby and shall be valid and enforced to the fullest extent possible permitted by law.
- 4) **WAIVER:** Failure or delay of either party to exercise a right under this Agreement shall not be considered a waiver of that right.
- 5) **AGENCY:** This agreement in no way establishes an agency relationship between the Town and the County. Each party shall maintain its independence and its separate identity. Each party shall have executive control of its management, employees, staff, policies and assets. Neither party assumes any liability for the acts of the other party.
- 6) **HOLD HARMLESS:** The Town shall hold the County harmless and indemnify the County from and against liability, loss, damage, cost and expense which such other party may suffer from any claim, demand, suit, or cause of action which may be made or had against it arising out of this Agreement.

**COUNTY OF MONTGOMERY
DEPARTMENT OF PUBLIC WORKS
AGREEMENT FOR CONTROL OF
GRASS AND BRUSH
ON COUNTY HIGHWAYS**

- 7) **ASSIGNMENT:** This Agreement binds the parties hereto and their respective successor, agents, officers, representatives and assigns. This Agreement may not be assigned by either party except by agreement, in writing, duly executed, signed and acknowledged by the authorized officers and/or representatives of both parties. The terms of this Agreement shall be binding upon the assigns of the parties hereto, in the event of approved assignment.
- 8) **MODIFICATION:** There shall be no oral modifications of this agreement and any modification or amendment of the terms of the agreement shall not be binding unless executed in writing by authorized officers and/or representatives of both parties. The terms of this written agreement contain entire understanding between the parties and supersede any oral representations previously made.
- 9) **VENUES AND DISPUTES:** The exclusive means of disposing of any dispute arising under this Agreement shall be decided in a New York State Court of competent jurisdiction located within Montgomery County, New York. There shall be no right to binding arbitration. Pending final resolution of a dispute, the Town shall proceed diligently with performing the terms of this Agreement. The Town waives any dispute or claim not made in writing and received by the County within thirty (30) days of the occurrence giving rise to the dispute or claim. The claim must be in writing for a sum certain and any money requested must be fully supported by all cost and pricing information.
- 10) **EXECUTORY:** This Agreement shall be deemed executory only to the extent of money available to the County for the performance of the terms hereof and no liability on account thereof shall be incurred by the County beyond money available for the purposes thereof.
- 11) **DISCRIMINATION:** That the Town hereby further agrees that it will not discriminate against anyone on the grounds of race, color, natural origin, or handicap.
- 12) **COMPLIANCE:** That the Town hereby further agrees that it will comply with all the Federal, State and County Laws, Rules, Regulations, Codes and Ordinances on its part to be complied with in the performance of this Agreement.

**COUNTY OF MONTGOMERY
DEPARTMENT OF PUBLIC WORKS
AGREEMENT FOR CONTROL OF
GRASS AND BRUSH
ON COUNTY HIGHWAYS**

This Agreement shall bind the successors' assigns and representatives of the parties hereto.

In witness thereof, this Agreement has been executed by the County and the Town has caused this agreement to be executed by its duly authorized officers on the day and year first above written.

Accepted for Montgomery County

Name: Matthew Ossenfort
Title: County Executive
Date:

Accepted for the Town of

Name:
Title:
Date:

SCHEDULE A
GENERAL INSURANCE REQUIREMENTS FOR
GRASS AND BRUSH AGREEMENT
ON COUNTY HIGHWAYS
MONTGOMERY COUNTY, NEW YORK

INSURANCE: Contractor/vendor shall not commence work under this contract until the contractor/vendor has obtained all insurance required under the following paragraphs and such insurance has been approved by the County of Montgomery.

Worker's Compensation Insurance: Contractor/vendor shall take out and maintain during the life of this contract, Worker's Compensation Insurance and employer's liability insurance for all the contractor's/vendor's employees employed at the side of the project. **PROOF OF WORKER'S COMPENSATION INSURANCE MUST BE PROVIDED ON THE FOLLOWING FORMS ONLY:**

- a) If coverage is obtained from an insurance carrier, on forms c-105.2(9-07) or U-26.3.
- b) If contractor/vendor is self insured or participates in an authorized group self-insurance plan, on forms SI-12 or GSI-105.2

Please note that ACORD forms are NOT acceptable proof of New York State Worker's Compensation Insurance.

If contractor/vendor is legally exempt from obtaining worker's compensation insurance, proof of such exemption **MUST BE PROVIDED** on the following form:

- a) WC/DB-100 (9-07), Affidavit for New York Entities With No Employees and Certain Out of State Entities, That New York State Worker's Compensation And/or Disability Benefits Insurance Coverage is not Required.

New York State Disability Benefits: Contractor/Vendor shall maintain coverage as required by law for disability benefits. **PROOF OF DISABILITY COVERAGE MUST BE PROVIDED ON THE FOLLOWING FORMS ONLY:**

- a) If coverage is obtained from an insurance carrier, on forms DB-120.1 or DB-820-829.
- b) If contractor/vendor is self insurance, on form DB-155.

Please note that ACORD forms are NOT acceptable proof of New York State disability insurance.

If contractor/vendor is legally exempt from obtaining disability benefits coverage, proof of such exemption **MUST BE PROVIDED** on the following form:

- a) WC/DB-100 (9/07), Affidavit for New York Entities With No Employees And Certain Out of State Entities, That New York State Worker's Compensation and/or Disability Benefits Insurance Coverage is Not Required.

General Liability Insurance: The contractor/vendor shall take out and maintain during the life of the contract, such bodily injury, personal injury and property damage liability insurance as shall protect him and the County from claims for damages including accidental death, as well as from claims for property damage, which may arise from operations under this contract, whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by either of them. It shall be the responsibility of the contractor/vendor to maintain such insurance in amounts sufficient to fully protect himself and the County, but in no instance shall amounts be less than those set forth below. These amounts are specified only to establish the MINIMUM coverage acceptable.

Schedule A(continued)

Bodily injury, property damage, and personal injury liability insurance in an amount not less than \$1,000,000 (one million dollars) per occurrence for injuries, including wrongful death subject to an annual aggregate limit in an amount less than \$2,000,000 (two million dollars)

Other Conditions of General Liability Insurance:

1. Coverage shall be written on Commercial General Liability form, or its equivalent.
2. Coverage shall include:
 - A. contractual liability
 - B. independent contractors
 - C. products and completed operations
3. County of Montgomery, County Office Building Annex, 20 Park Street, P.O. Box 1500, Fonda, New York 12068, shall be added to the General Liability policy as "Additional Insured."

Automobile Liability Insurance:

Automobile bodily injury liability and property damage liability insurance shall be provided by the contractor/vendor with a minimum combined single limit (CSL) of \$1,000,000 (one million dollars) per accident.

Other conditions of Automobile Liability Insurance:

1. Coverage Shall include:
 - A. Owned, hired car and non-owned vehicles

Evidence of Insurance:

The contractor/vendor shall file with the County insurance office before commencing work under this contract, a certificate of Insurance which shall bear the following information:

1. Name and address of Insured.
2. Titles and location of operations to which insurance applies.
3. Policy number, insurance company name and type or types of insurance in force there under on date borne by such certificate.
4. Inception and expiration dates of policies and limit or limits of liability thereunder on date borne by such certificate.
5. Thirty day notice of cancellation or non-renewal.
6. If contractor's/vendor's insurance policies should expire or not be renewed during the life of the contract, the contractor/vendor shall provide the County with a new certificate of insurance which indicates the replacement policy information as requested above.
7. County of Montgomery, Montgomery County Office Annex Building, 20 Park Street, P.O. Box 1500, Fonda, New York, shall be added to the General Liability policy as "Additional Insured."

Montgomery County Society for the Prevention of Cruelty to Animals and
The City of Amsterdam

Dog Shelter Service Agreement
July 1, 2022 to June 30, 2024

THIS AGREEMENT is made pursuant to the provisions of Article 7, Section 115 of the Agriculture and Markets Law for the State of New York, by and between the **City of Amsterdam**, a municipal corporation in the State of New York hereinafter referred to as "**City**" and the **Montgomery County Society for the Prevention of Cruelty to Animals, Inc.**, herein after referred to as the "**MCSPCA**", a not-for-profit corporation, created and existing under and by virtue of the laws of the State of New York and having its office and principal place of business adjacent to State Highway 5S on SPCA Road in the City of Amsterdam, County of Montgomery and the State of New York.
IT IS AGREED AS FOLLOWS:

The **MCSPCA** will provide and maintain a shelter for all dogs, taken into custody by the **City's** Animal Control Officer under any provision of Article 7 of the Agriculture and Market Laws or any **City** Ordinance and properly care for such dogs until as provided in the above State Law they are redeemed, adopted, or subject to euthanasia.

The **City** shall be responsible for the costs of necessary medical treatment by a veterinarian of any animal during the mandatory statutory holding period of five (5) days for licensed and unlicensed dogs. After the five days the **MCSPCA** will take custody of the animal.

The **MCSPCA** shelter shall, at all times during the period of this agreement be under the care and charge of a competent employee and shall be open to the public at reasonable hours, to wit:

Monday and Tuesday: Closed

Wednesday through Sunday: 12:00 pm to 4:00 pm

Legal holidays, emergencies, cruelty and neglect investigations excluded.

The **MCSPCA** shelter shall be accessible to the **City** on a twenty-four (24) hour basis. During the hours when the shelter is not open to the public it shall be accessible only for the purpose of leaving animals at the shelter.

The **MCSPCA** will assist all police agencies in the investigation of alleged cases of animal cruelty occurring in the **City** when those cases are reported to its duly appointed agents by written complaints, signed by those making the complaint.

The **MCSPCA** will follow the provisions of Article 7 of the Agriculture and Market Laws and any rules and regulations promulgated pursuant thereto in relation to the seizure, holding, care, redemption and disposition of seized dogs.

The **MCSPCA** will file and maintain a complete record of any seizure and subsequent disposition of any dog in the shelter's care in the manner prescribed by the Commissioner of Agriculture and Market, as well as any other record required by Article 7.

The **MCSPCA** will remit to the Fiscal Officer of the **City** any fees collected by it in the performance of this contract to which the **City** is entitled pursuant to Article 7 of the Agriculture and Market Laws.

The **MCSPCA** will provide and maintain a shelter for any dog deemed dangerous by the municipal judge and taken into custody by the **City's** Animal Control Officer or **City's** Police Officers under any provision of Article 7 of the Agriculture and Market Laws Section 123 or any **City** Ordinance. The

MCSPCA shall properly care for such dogs until the dog is removed from the **MCSPCA**'s premises by the **City**'s Animal Control Officer or **City**'s Police Officers. The **City** shall be responsible for necessary medical care and transportation of dangerous dogs to a veterinarian for treatment during the holding period. The **City** of Amsterdam will be charged the amount of fifty (50) dollars per day for each dangerous dog held at the **MCSPCA**. The **MCSPCA** will bill the **City** on a monthly invoice while the dog's is being sheltered.

The **MCSPCA** will provide and maintain a shelter for any dog required to be quarantined for a 10-Day Bite Hold. The **MCSPCA** shall properly care for such dogs until the dog is removed from the **MCSPCA**'s premises by the **City**'s Animal Control Officer or Law Enforcement. The **City** will be charged the amount of fifty (50) dollars per day for each dog held on a 10-Day Bite Hold at the **MCSPCA**.

The **City** in consideration of the performance by the **MCSPCA** of the terms of this agreement, hereby agrees to pay the **MCSPCA** the sum of Sixteen Thousand Dollars (\$16,000.00) in four (4) quarterly installments to be paid over two years as follows:

\$4,000 by July 1, 2022 and July 1, 2023
\$4,000 by October 1, 2022 and October 1, 2023
\$4,000 by January 1, 2023 and January 1, 2024
\$4,000 by April 1, 2023 and April 1, 2024

The term of this agreement shall be for a period of twenty-four (24) months commencing on July 1, 2022 and ending on June 30, 2024.

Either party to this agreement may terminate this agreement in full by providing a written notice of such termination at least ninety (90) days prior to the termination date. Both parties to this agreement also agree that modifications may be made at any time by written agreement of both parties.

IN WITNESS WHEREOF the parties hereto have caused this agreement to be executed by their duly authorized officers.

City of Amsterdam

By: _____ Date: _____
Michael Cinquanti, Mayor

Montgomery County Society for the Prevention of Cruelty to Animals, Inc.

By: _____ Date: _____
Jan Zumbolo, President of the Board of Directors